

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ SEP 21 2011 ★  
**BROOKLYN OFFICE**

D/F

AW INDUSTRIES, INC.  
*a Maryland corporation,*

Plaintiff,

**10-CV-04439 (NGG) (RER)**

-against-

SLEEPINGWELL MATTRESS INC.  
*a New York corporation,*

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiff AW Industries, Inc., brings suit against Defendant Sleepingwell Mattress Inc., alleging Defendant infringed on Plaintiff's federally registered trademark and used false designations of origin and false representations in commerce, all in violation of the Lanham Act, 15 U.S.C. §§ 1114, 1125, and also violated state trademark and unfair competition law. (Compl. (Docket Entry #1) at 5-8.) Plaintiff seeks damages, attorneys' fees, costs, and injunctive relief, all remedies authorized by the Lanham Act. (Compl. at 8-10.) Defendant did not answer or otherwise respond to Plaintiff's Complaint, and the Clerk of Court issued a notation of default. (Docket Entry Nov. 16, 2010.) Plaintiff then moved for default judgment and an inquest for damages (Docket Entry #6), which the court referred to Magistrate Judge Ramon E. Reyes, Jr., for report and recommendation. (Docket Entry May 5, 2011.) Judge Reyes has since issued his Report and Recommendation ("R&R"), in which he recommended granting Plaintiff's motion for default judgment and entering permanent injunctive relief for the Plaintiff. (R&R (Docket Entry

#13) at 5, 19-22.) Judge Reyes also calculated that Plaintiff was entitled to damages of \$220,000.00, attorneys' fees of \$20,771.50, and costs of \$675.56. (Id. at 10-19.)

No party has objected to Judge Reyes's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). Accordingly, the court reviews Judge Reyes's R&R for clear error. See 28 U.S.C. § 636(b)(1). Having reviewed Judge Reyes's R&R, the court adopts it in its entirety. See Porter v. Potter, 219 F. App'x 112, 113 (2d Cir. 2007). Accordingly, the court GRANTS Plaintiff's motion for default judgment, and awards \$220,200.00 in damages, \$20,771.50 in attorneys' fees, and \$675.56 in costs. The court also permanently enjoins Defendant from: (1) using the SLEEPWELL trademark and any other trademark containing the term SLEEPWELL, SLEEPINGWELL, or otherwise confusingly similar to the SLEEPWELL trademark, including the name SLEEPINGWELL MATTRESS, INC. in the marketing, offering for sale, providing and/or sale of mattresses, box springs, bed foundations, or any other goods that are related to the goods, offered, provided, and sold under the SLEEPWELL trademark; (2) using false representations or descriptions in commerce, or using false designations of origin, that are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with Plaintiff or as to the origin, sponsorship, or approval of Defendant's goods by Plaintiff; and, (3) otherwise infringing the SLEEPWELL trademark.

SO ORDERED.

Dated: Brooklyn, New York  
September 21, 2011

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS  
United States District Judge